

### REMARKS

By this Amendment, the Specification has been amended at page 5, Claim 8 has been amended, and new formal drawings have been submitted, to place this application in immediate condition for allowance.

In the outstanding Office Action, the Examiner has requested that informalities in the Specification and drawings noted in the parent applications should be corrected. By this response, Applicants have complied with this request. In reviewing the parent applications, there were no amendments made in application Serial No. 10/408,285 that matured into U.S. Patent No. 6,723,111. However, in parent application Serial No. 10/223,141 that matured into U.S. Patent No. 6,589,261, several amendments were made.

First, in the Specification, the disclosure at page 5, lines 1-15 was rewritten in an Amendment identified as Paper No. 6 and filed on December 16, 2002. The same amendment has been entered herein. In the same Amendment, changes in the drawings were proposed as follows:

In Figure 1, reference numerals 10 and 16 were proposed to be inserted;

In Figure 5, it was proposed to move the lead line for the reference numeral 32;

In Figure 7, it was proposed to apply reference numeral 30 to the runners;

In Figure 9, it was proposed to show the upper jaw 42 in opposed relationship to the lower jaw 41;

In Figure 10, it was proposed to perform modifications in the same fashion as in Figure 9 to show the anchor support 44 which fits beneath the angled portion 26 of the needle 25.

These proposed drawing changes were approved by the Examiner resulting in submission of formal drawings, Paper No. 8, in the parent application dated March 24, 2003. Photocopies of the very same formal drawings have been submitted herewith.

In the outstanding Office Action, the Examiner has rejected Claims 8-17 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. In this regard, the Examiner has indicated that in Claim 8, there is an inconsistency concerning whether the claimed invention consists of the lancet per se or the lancet in combination with the lancing device. Accordingly, Claim 8 has been amended to make it clear that the lancet is claimed alone and not in combination with the lancing device, with the lancing device being recited only as an environment of intended use of the lancet.

In the outstanding Office Action, the Examiner has rejected Claims 8-17 under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 3,358,689 to Higgins in view of U.S. Patent No. 3,330,004 to Cloyd et al. In making this ground of rejection, the Examiner provided his interpretation of the recitation in Claim

8 as previously presented concerning the recited "diametrically opposed aligned ports" as follows:

"(Ports 16 are 'diametrically opposed' since they are on opposite sides of the body 11. As to the term 'aligned', it is noted that ports 35 of applicant's invention are aligned in two ways: First, they are aligned along the longitudinal axis of the device and second, they are aligned along an axis perpendicular to the longitudinal axis. Ports 16 of Higgins are aligned along the longitudinal axis of the device. That is, one port 16 is directly behind the other along the longitudinal axis of the device as seen in figure 3. Thus, Higgins meets the term 'aligned' as broadly claimed.)"

This is not the first time Higgins and Cloyd et al. have been applied. Based upon a review of the application, it appears that the closest prior art is in the application and clarification of Applicants' meaning of "diametrically opposed aligned ports" would serve to distinguish Claim 8 and Claims 9-17 from the combination of Higgins and Cloyd et al.

Accordingly, by this Amendment, Claim 8 has been amended to now recite the following in pertinent part:

"b) said plastic lancet body having an axis of elongation and diametrically opposed ports sharing a common axis substantially perpendicular to said axis of elongation of said plastic lancet body and revealing the body portion of said needle or blade."

Accordingly, it is believed that independent Claim 8 recites the relationship between the ports in an unambiguous fashion precluding the interpretation set forth by the Examiner in the outstanding Office Action that, somehow, the ports don't have to be axially

aligned with one another. In fact, the ports 35 of the present invention are not only diametrically opposed, they are also axially aligned in an orientation substantially perpendicular to the axis of elongation of the plastic lancet body.

Based upon these amendments, it is respectfully submitted that the claims patentably distinguish from the combination of Higgins and Cloyd et al.

In the outstanding Office Action, the Examiner has repeated the previously made rejection of Claims 8-17 under the judicially created doctrine of obviousness-type double patenting. In this regard, the required Terminal Disclaimers were submitted with the previous response. In repeating the ground of rejection, the Examiner indicated that this action was taken because, allegedly, in the previous submission, "form PTO/SB/96 is missing."

In this regard, Applicants visited the Patent and Trademark Office website and accessed the publicly accessible documents for this application. Among those documents were two forms PTO/SB/96, one concerning U.S. Patent No. 6,589,261 and the other concerning U.S. Patent No. 6,723,111. Accordingly, these forms are re-submitted herewith.

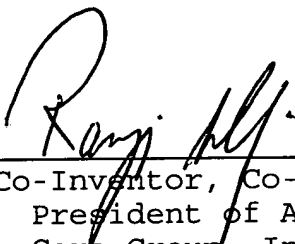
Although this Amendment is presented after a Final Rejection, it is respectfully submitted that it should be entered, and the application should be allowed as a result thereof. The Amendment is solely directed to formal issues, and resolves each and every

one of them. First, the Amendment carries forward amendments to the Specification and drawings that were entered in the parent application that matured into U.S. Patent No. 6,589,261. Second, the amendments to the claims are merely of a clarifying nature. It appears that the best prior art is in the case and the amendments do not necessitate a further search. Third, accompanying this Amendment are copies of previously submitted forms PTO/SB/96 that the Examiner indicated had not been previously submitted.

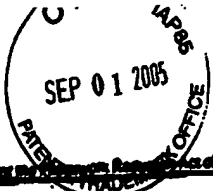
Accordingly, reconsideration, entry of this Amendment, and allowance of the application are respectfully solicited.

Respectfully submitted,

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**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: VITALCARE GROUP, INC.

Application No./Patent No.: 6723111 Filed/Issue Date: April 20, 2004

Entitled: LANCET NEEDLE ANCHOR METHOD

VITALCARE GROUP, INC., a Corporation  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

- states that it is:
- ☒ the assignee of the entire right, title, and interest or
  - ☐ an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_%

In the patent application/patent identified above by virtue of either:

A ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013885, Frame 0286, or for which a copy thereof is attached.

OR  
B ☐ A chain of title from the inventor(s) of the patent application/patent identified above, to the current assignee as shown below:

- From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
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☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.  
NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.06.

The undersigned (whose title is printed below) is authorized to act on behalf of the assignee.

Ramzi Abulhaj  
Signature  
Ramzi Abulhaj  
Printed or Typed Name

Aug 31, 05  
Date  
505-620-4007  
Telephone Number

President, VITALCARE GROUP, INC.  
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or maintain a benefit by the public which is in the best interest of the USPTO to process an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. There will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1488, Alexandria, VA 22303-1488. DO NOT SEND FEES ON COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 4658, Alexandria, VA 22303-4458.

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**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: VITALCARE GROUP, INC.

Application No./Patent No.: 6589261 Filing Date: July 8, 2003

Entitled: LANCET NEEDLE ANCHOR AND METHOD

VITALCARE GROUP, INC., a Corporation  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest or  
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %

In the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013885, Frame 0286, or for which a copy thereof is attached.

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The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.

(NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08)

The undersigned person (the assignee below) is authorized to act on behalf of the assignee.

Ranjit Abulhaj  
Signature  
RANJIT ABULHAJ

Printed or Typed Name

PRESIDENT, VITALCARE GROUP, INC.

Aug 26, 05  
Date  
305-620-4007

Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or make a benefit by the public which is in the (and by the USPTO in passing) on application. Confidentiality is provided by 35 U.S.C. 123 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. There will vary depending upon the individual case. Any comments on the amount of time you require to complete this form under suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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